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March 29, 2024

By CM/ECF

Hon. John F. Murphy
United States District Judge
Eastern District of Pennsylvania
3809 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106

Re: Zaxcom, Inc. v. Rode Microphones, LLC and Freedman Electronics Pty Ltd.
Case No. 23-1245 JFM

Dear Judge Murphy,

Zaxcom, Inc. (“Zaxcom”) hereby submits this status report in accordance with this Court’s January 29, 2024 Order (D.I. 13). Zaxcom made every effort to negotiate a joint status report with counsel for Rode, but Rode broke off negotiations of the joint status report prior to its completion, refused to provide a redline version, and stopped responding to our status requests, thereby forcing us to file this status report solely on the part of Zaxcom.

This litigation began on October 31, 2023, when Zaxcom filed its Complaint, D.I. 1, against Rode Microphones, LLC (“Rode”) and Freedman Electronics Pty Ltd. (“Freedman”) alleging patent infringement. Zaxcom contacted attorneys for Freedman and Rode on November 2, 2023 to request a waiver of service, which request was rejected on November 8, 2023. On or about December 4, 2023, Zaxcom served Rode and Freedman through Rode’s Delaware registered agent, who rejected service for Freedman claiming it was not authorized to accept service for Freedman. Similarly, Rode’s counsel has repeatedly stated that it will not accept service on behalf of Freedman.

Plaintiff initiated service on Freedman via the Hague Service Convention (“Hague Convention”) on December 30, 2023. As of the date of this report, Zaxcom has not received confirmation of service via the Hague Convention, and it is unable to obtain a status update from the Australian Central Authority.

In an attempt to move these proceedings forward, Zaxcom initiated and concluded a fourth service attempt. Zaxcom served the Complaint and Summons to Freedman through registered mail to Freedman’s registered address and principal place of business in New South Wales, Australia. Zaxcom hired Eden King Lawyers in New South Wales, Australia, to effectuate service in accordance with the laws of New South Wales. An Affidavit of Service of Claudette Gazi, the principal of Eden King Lawyers, is attached hereto as Appendix A, attesting to service of the complaint and summons to Freedman’s registered address and principal place of business on

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March 4, 2024 pursuant to the laws of New South Wales. As such, it is Zaxcom's position that Freedman's answer was due, at a minimum, on or before March 25, 2024. The Defendants' deny that this fourth service attempt is valid, which is part of what necessitated the filing of Zaxcom's Motion of Default and Motion for an Order Acknowledging Service Pursuant to Rule 4(f)(2)(A), or, in the Alternative, an Order Authorizing Service on Defendant Freedman Electronics Pty Ltd. Pursuant to Rule 4(f)(3) ("Motions"), filed on March 8, 2024, and pending before this Court. As per Your Honor's March 19, 2024 Ordered Stipulation to Extend (D.I. 32), Rode's Answer to these Motions is due on or before April 5, 2024.

While Freedman's service issues are pending, Zaxcom and Rode have begun discovery as per this Court's Order (D.I.18). Both Zaxcom and Rode have served discovery requests, and Rode has responded with 81 pages objecting to every document request and interrogatory on multiple grounds. Rode has yet to produce any responsive documents or privilege logs and provided two substantive answers to Zaxcom's (17) interrogatories. Zaxcom will be issuing a Rule 37 Letter to Rode to address these deficiencies. Zaxcom will respond to Rode's discovery requests on or before April 9, 2024.

Finally, during a March 14, 2024 call between the parties' counsel, Ms. Chipperson and Mr. Beem, Zaxcom raised the issue that the parties have not yet held an initial settlement discussion, despite reaching the stage of exchanging discovery documents. Mr. Beem indicated that his clients might be amenable to such a discussion, and that he would discuss this with his clients and revert back to Zaxcom. Thereafter, during the preparation of this status report, Zaxcom was notified that Rode does not expect that a settlement conference would be useful at this time.

Respectfully Submitted,

/s/ Sean T. O'Kelly

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Enclosures: Affidavit of Service – 2 pp.